

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 0:24-cv-60016-DPG

RUDOLPH BETANCOURT,

Plaintiff,

v.

**SALLY BEAUTY SUPPLY, LLC
and M&S PROPERTY MANAGEMENT CORP.,**

Defendants.

ORDER

THIS CAUSE comes before the Court on Magistrate Judge Panayotta Augustin-Birch’s Report and Recommendation on Defendants’ Motions to Dismiss (the “Report”). [ECF No. 28]. On February 20, 2024 and March 7, 2024, Defendants Sally Beauty Supply, LLC and M&S Property Management Corp. respectively filed their mirroring Motions to Dismiss, or in the Alternative, Motions to Strike Plaintiff’s First Amended Complaint (the “Motions”). [ECF Nos. 18, 21]. Plaintiff then filed his Responses, [ECF Nos. 20, 23]. Defendants did not file any replies. On March 27, 2024, the Court referred the case to Judge Augustin-Birch, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a report and recommendation on any dispositive matters. [ECF No. 26]. On April 23, 2024, Judge Augustin-Birch issued her Report recommending that the Court grant, in part, and deny, in part, Defendants’ Motions. [ECF No. 28]. The parties have not objected to the Report.

A district court may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objections are made are

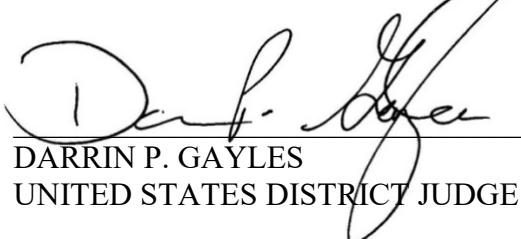
accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objections are made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006).

This Court finds no clear error with Judge Augustin-Birch’s well-reasoned analysis and agrees that the Motions should be granted, in part, and denied, in part.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Magistrate Judge Panayotta Augustin-Birch’s Report and Recommendation on Defendants’ Motions to Dismiss, [ECF No. 28], is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference;
2. Defendant Sally Beauty Supply, LLC’s Motion to Dismiss, or in the Alternative, Motion to Strike Plaintiff’s First Amended Complaint, [ECF No. 18], and Defendant M&S Property Management Corp.’s Motion to Dismiss, or in the Alternative, Motion to Strike Plaintiff’s First Amended Complaint, [ECF No. 21], are **GRANTED** as to Plaintiff’s request to inspect the subject property for unknown barriers to access. The Motions are otherwise **DENIED**; and
3. Paragraph eighteen (18) of the First Amended Complaint, [ECF No. 13], is hereby **STRICKEN**.

DONE AND ORDERED in Chambers at Miami, Florida, this 23rd day of May, 2024.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE